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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,743	07/20/2001	Juhani Maki	19380.0009	8845

7590 11/19/2003

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EXAMINER	
PRATT, HELEN F	

ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/889,743	MAKI, JUHANI	
	Examiner	Art Unit	
	Helen F. Pratt	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 January 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *19-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *19-25,27-31,34 and 35* is/are rejected.

7)☒ Claim(s) *26, 32, 33, 36-40* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 19 –25, 27-31, 34, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kali et al. (British, 351,845) in view of Davy (2,471,144) and German patent 1 567 937).

The claims are rejected for the reasons of record cited in the last office action and for these further reasons. Claim 29 further requires that the product contain materials that are advantageous to vital functions and claim 30 that the material can be a micronutrient. Certainly, the minerals of the composition are both micronutrients and are advantageous to vital functions because they perform their known functions in the body. Therefore, it would have been obvious to use minerals to form their known functions.

Claim 31 further requires additives, which affect the taste of the product. Certainly the added minerals protect the taste of the product (col. 2, lines 74-99). Therefore, it would have been obvious to use additives to affect the taste of the product.

Claim 34 requires that the precipitation is performed in a continuous process, which is disclosed by the reference in the addition magnesium chloride hexa- hydrate and ammonium chloride are added to the mother liquor of ammonium chloride and

magnesium chloride. Therefore, it would have been obvious to use a continuous process as disclosed by Kali.

Allowable Subject Matter

Claims 26, 32, 33, 36-40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

ARGUMENTS

Applicant's arguments filed 10-27-03 have been fully considered but they are not persuasive. Applicants argue that Kali et al. do not disclose a physiological salt food product, but discloses an intermediary substance. However, this is not seen because as in In re Ebert et al. 420 OG 573 or 1932 CD 327, that "the same acts in the same relationship necessarily produce the same result and it is immaterial that the patentees do not state in words that the incompressible materials are removed or that the patentee do not state the particular advantage of their removal or as in Allen v. Coe 57 USPQ 136 "The observation of still another beneficial result in an old process cannot form the basis for patentability. As to the arguments for the 103 obviousness-type rejection, the above apply.

Applicants argue as to Kali et al. with Davy and Goodenough et al. that they do not suggest a physiological salt food product. However, they were used for what they teach as in the art rejection, not for the whole invention, each applied separately.

Any inquiry concerning this communication should be directed to Helen F. Pratt at telephone number 703-308-1978. hp 11-17-03

HELEN PRATT
PRIMARY EXAMINER